

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NO. OSH 2003-22
)	
DIRECTOR, DEPARTMENT OF LABOR)	ORDER NO. 84
AND INDUSTRIAL RELATIONS,)	
)	PRETRIAL ORDER
Complainant,)	
)	
vs.)	
)	
BODELL CONSTRUCTION CO.,)	
)	
Respondent.)	

PRETRIAL ORDER

Pursuant to the representations of counsel for the parties at the initial conference held by conference call on December 23, 2003, IT IS HEREBY ORDERED THAT:

1. The issues to be determined are:

Whether Respondent violated 29 CFR 1926.501(b)(13) as described in Citation 1, Item 1.

- a. If so, is the characterization of the violation as “repeat” appropriate? If not, what is the appropriate characterization?
 - b. If so, was the imposition and amount of the proposed \$17,500.00 penalty appropriate?
2. Respondent shall file a Statement of Affirmative Defenses with the Board by January 9, 2004.
 3. Discovery deadlines are established as follows:
 - a. Unnamed Witness February 23, 2004
identification; exchange of
expert witness reports

- b. Live witness identification March 23, 2004
 - c. Expert witness rebuttal March 8, 2004
 - d. Discovery cut-off March 23, 2004
- 4. The deadline for filing dispositive motions with the Board is April 23, 2004.
 - 5. The Board will conduct a hearing on any dispositive motions on May 11, 2004 at 9:30 a.m. in the Board's hearing room, Room 434, 830 Punchbowl Street, Honolulu, Hawaii. In the event no motions are filed, the Board will conduct a trial in this matter on May 11 - 13, 2004 at 9:30 a.m. in the above-mentioned hearing room.
 - 6. Hereafter, this Pretrial Order shall control the course of proceedings and may not be amended except by consent of the parties and the Board, or by order of the Board.

DATED: Honolulu, Hawaii, December 29, 2003.

HAWAII LABOR RELATIONS BOARD


BRIAN K. NAKAMURA, Chair


CHESTER C. KUNITAKE, Member


KATHLEEN RACUYA-MARKRICH, Member

NOTICE TO EMPLOYER

You are required to post a copy of this Order at or near where citations under the Hawaii Occupational Safety and Health Law are posted at least five working days prior to the trial date. Further, you are required to furnish a copy of this Order to a duly recognized representative of the employees at least five working days prior to the trial date.

Copies sent to:

Herbert B.K. Lau, Deputy Attorney General
Robert K. Reynard, Esq.